

AMENDED IN ASSEMBLY SEPTEMBER 8, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1065

Introduced by Assembly Member Gilmore

February 27, 2009

~~An act to amend Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to add Sections 17053.15 and 23608.4 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1065, as amended, Gilmore. ~~Taxation: low-income housing: farmworker housing. Low-income housing tax credits.~~

Existing law establishes a low-income housing tax credit program, administered by the California Tax Credit Allocation Committee, which provides procedures and requirements for the allocation of state tax credit amounts among low-income housing projects based on federal law. Existing law, among other things, provides for the recapture for noncompliance, in a specified amount, of tax credits previously granted with respect to the costs of constructing or rehabilitating farmworker housing.

This bill would, in the case of the credit applicable to farmworker housing, modify the recapture amount, as provided.

This bill would take effect immediately as a tax levy.

~~Existing insurance tax law and the Personal Income Tax Law and the Bank and Corporation Tax Law authorize, for so long as corresponding provisions of federal law are in effect, a credit against the taxes imposed by those state laws for certain amounts with respect to the provision of specified low-income housing, including projects to provide farmworker~~

housing. Those laws generally provide that the maximum aggregate dollar amount of the credits allowed in each calendar year may not exceed \$500,000.

This bill would, for purposes of existing farmworker housing tax credits, increase the maximum aggregate dollar amount of credits allowed in each calendar year to \$1,000,000.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17053.15 is added to the Revenue and
2 Taxation Code, to read:

3 17053.15. (a) The compliance period for any farmworker
4 housing credit granted or allocated under former Section 10753.14
5 shall be 30 years, as set forth in subdivision (h) of Section 17058.
6 Notwithstanding the provisions of former Section 17053.14, any
7 farmworker housing credit granted or allocated under former
8 Section 17053.14 shall be subject to recapture during the recapture
9 period. For purposes of this section, "recapture period" means
10 the 15 consecutive taxable years beginning with the taxable year
11 in which the credit is allowable.

12 (b) For purposes of calculating the recapture amount for any
13 farmworker housing credit granted or allocated under former
14 Section 17053.14, for a disqualifying event described in
15 subparagraph (B) of paragraph (2) of subdivision (k) of former
16 Section 17053.14, "recapture amount" means an amount
17 determined by multiplying the entire amount of the credit
18 previously allowed under former Section 17053.34 by a fraction,
19 the numerator of which is the number of years remaining in the
20 recapture period and the denominator of which is 15.

21 SEC. 2. Section 23608.4 is added to the Revenue and Taxation
22 Code, to read:

23 23608.4. (a) The compliance period for any farmworker
24 housing credit granted or allocated under former Section 23608.2
25 shall be 30 years, as set forth in subdivision (h) of Section 17058.
26 Notwithstanding the provisions of former Section 23608.2, any
27 farmworker housing credit granted or allocated under former
28 Section 23608.2 shall be subject to recapture during the recapture

1 *period. For purposes of this section, “recapture period” means*
2 *the 15 consecutive taxable years beginning with the taxable year*
3 *in which the credit is allowable.*

4 *(b) For purposes of calculating the recapture amount for any*
5 *farmworker housing credit granted or allocated under former*
6 *Section 23608.2, for a disqualifying event described in*
7 *subparagraph (B) of paragraph (2) of subdivision (k) of former*
8 *Section 23608.2, “recapture amount” means an amount determined*
9 *by multiplying the entire amount of the credit previously allowed*
10 *under former Section 23608.2 by a fraction, the numerator of*
11 *which is the number of years remaining in the recapture period*
12 *and the denominator of which is 15.*

13 *SEC. 3. This act provides for a tax levy within the meaning of*
14 *Article IV of the Constitution and shall go into immediate effect.*

15 ~~SECTION 1. Section 12206 of the Revenue and Taxation Code~~
16 ~~is amended to read:~~

17 ~~12206. (a) (1) There shall be allowed as a credit against the~~
18 ~~“tax” (as defined by Section 12201) a state low-income housing~~
19 ~~tax credit in an amount equal to the amount determined in~~
20 ~~subdivision (e), computed in accordance with Section 42 of the~~
21 ~~Internal Revenue Code, except as otherwise provided in this~~
22 ~~section.~~

23 ~~(2) “Taxpayer,” for purposes of this section, means the sole~~
24 ~~owner in the case of a “C” corporation, the partners in the case of~~
25 ~~a partnership, and the shareholders in the case of an “S”~~
26 ~~corporation.~~

27 ~~(3) “Housing sponsor,” for purposes of this section, means the~~
28 ~~sole owner in the case of a “C” corporation, the partnership in the~~
29 ~~case of a partnership, and the “S” corporation in the case of an “S”~~
30 ~~corporation.~~

31 ~~(b) (1) The amount of the credit allocated to any housing~~
32 ~~sponsor shall be authorized by the California Tax Credit Allocation~~
33 ~~Committee, or any successor thereof, based on a project’s need~~
34 ~~for the credit for economic feasibility in accordance with the~~
35 ~~requirements of this section.~~

36 ~~(A) Except for projects to provide farmworker housing, as~~
37 ~~defined in subdivision (h) of Section 50199.7 of the Health and~~
38 ~~Safety Code, that are allocated credits solely under the set-aside~~
39 ~~described in subdivision (c) of Section 50199.20 of the Health and~~

1 Safety Code, the low-income housing project shall be located in
2 California and shall meet either of the following requirements:

3 (i) The project's housing sponsor shall have been allocated by
4 the California Tax Credit Allocation Committee a credit for federal
5 income tax purposes under Section 42 of the Internal Revenue
6 Code.

7 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the
8 Internal Revenue Code.

9 (B) The California Tax Credit Allocation Committee shall not
10 require fees for the credit under this section in addition to those
11 fees required for applications for the tax credit pursuant to Section
12 42 of the Internal Revenue Code. The committee may require a
13 fee if the application for the credit under this section is submitted
14 in a calendar year after the year the application is submitted for
15 the federal tax credit.

16 (C) (i) For a project that receives a preliminary reservation of
17 the state low-income housing tax credit, allowed pursuant to
18 subdivision (a), on or after January 1, 2009, and before January 1,
19 2016, the credit shall be allocated to the partners of a partnership
20 owning the project in accordance with the partnership agreement,
21 regardless of how the federal low-income housing tax credit with
22 respect to the project is allocated to the partners, or whether the
23 allocation of the credit under the terms of the agreement has
24 substantial economic effect, within the meaning of Section 704(b)
25 of the Internal Revenue Code.

26 (ii) This subparagraph shall not apply to a project that receives
27 a preliminary reservation of state low-income housing tax credits
28 under the set-aside described in subdivision (c) of Section 50199.20
29 unless the project also receives a preliminary reservation of federal
30 low-income housing tax credits.

31 (iii) This subparagraph shall cease to be operative with respect
32 to any project that receives a preliminary reservation of a credit
33 on or after January 1, 2016.

34 (2) (A) The California Tax Credit Allocation Committee shall
35 certify to the housing sponsor the amount of tax credit under this
36 section allocated to the housing sponsor for each credit period.

37 (B) In the case of a partnership or an "S" corporation, the
38 housing sponsor shall provide a copy of the California Tax Credit
39 Allocation Committee certification to the taxpayer.

1 ~~(C) The taxpayer shall attach a copy of the certification to any~~
2 ~~return upon which a tax credit is claimed under this section.~~

3 ~~(D) In the case of a failure to attach a copy of the certification~~
4 ~~for the year to the return in which a tax credit is claimed under this~~
5 ~~section, no credit under this section shall be allowed for that year~~
6 ~~until a copy of that certification is provided.~~

7 ~~(E) All elections made by the taxpayer pursuant to Section 42~~
8 ~~of the Internal Revenue Code shall apply to this section.~~

9 ~~(F) No credit shall be allocated under this section to buildings~~
10 ~~located in a difficult development area or a qualified census tract~~
11 ~~as defined in Section 42 of the Internal Revenue Code for which~~
12 ~~the eligible basis of a new building or the rehabilitation expenditure~~
13 ~~of an existing building is 130 percent of that amount pursuant to~~
14 ~~Section 42(d)(5)(C) of the Internal Revenue Code, unless the~~
15 ~~committee reduces the amount of federal credit, with the approval~~
16 ~~of the applicant, so that the combined amount of federal and state~~
17 ~~credit shall not exceed the total credit allowable pursuant to this~~
18 ~~section and Section 42(b) of the Internal Revenue Code, computed~~
19 ~~without regard to Section 42(d)(5)(C) of the Internal Revenue~~
20 ~~Code.~~

21 ~~(e) Section 42(b) of the Internal Revenue Code shall be modified~~
22 ~~as follows:~~

23 ~~(1) In the case of any qualified low-income building that receives~~
24 ~~an allocation after 1989 and is a new building not federally~~
25 ~~subsidized, the term “applicable percentage” means the following:~~

26 ~~(A) For each of the first three years, the percentage prescribed~~
27 ~~by the Secretary of the Treasury for new buildings that are not~~
28 ~~federally subsidized for the taxable year, determined in accordance~~
29 ~~with the requirements of Section 42(b)(2) of the Internal Revenue~~
30 ~~Code, in lieu of the percentage prescribed in Section 42(b)(1)(A)~~
31 ~~of the Internal Revenue Code.~~

32 ~~(B) For the fourth year, the difference between 30 percent and~~
33 ~~the sum of the applicable percentages for the first three years.~~

34 ~~(2) In the case of any qualified low-income building that receives~~
35 ~~an allocation after 1989 and that is a new building that is federally~~
36 ~~subsidized or that is an existing building that is “at risk of~~
37 ~~conversion,” the term “applicable percentage” means the following:~~

38 ~~(A) For each of the first three years, the percentage prescribed~~
39 ~~by the Secretary of the Treasury for new buildings that are federally~~
40 ~~subsidized for the taxable year.~~

1 ~~(B) For the fourth year, the difference between 13 percent and~~
2 ~~the sum of the applicable percentages for the first three years.~~

3 ~~(3) For purposes of this section, the term “at risk of conversion,”~~
4 ~~with respect to an existing property means a property that satisfies~~
5 ~~all of the following criteria:~~

6 ~~(A) The property is a multifamily rental housing development~~
7 ~~in which at least 50 percent of the units receive governmental~~
8 ~~assistance pursuant to any of the following:~~

9 ~~(i) New construction, substantial rehabilitation, moderate~~
10 ~~rehabilitation, property disposition, and loan management set-aside~~
11 ~~programs, or any other program providing project-based assistance~~
12 ~~pursuant to Section 8 of the United States Housing Act of 1937,~~
13 ~~Section 1437f of Title 42 of the United States Code, as amended.~~

14 ~~(ii) The Below-Market-Interest-Rate Program pursuant to~~
15 ~~Section 221(d)(3) of the National Housing Act, Sections~~
16 ~~1715l(d)(3) and (5) of Title 12 of the United States Code.~~

17 ~~(iii) Section 236 of the National Housing Act, Section 1715z-1~~
18 ~~of Title 12 of the United States Code.~~

19 ~~(iv) Programs for rent supplement assistance pursuant to Section~~
20 ~~101 of the Housing and Urban Development Act of 1965, Section~~
21 ~~1701s of Title 12 of the United States Code, as amended.~~

22 ~~(v) Programs pursuant to Section 515 of the Housing Act of~~
23 ~~1949, Section 1485 of Title 42 of the United States Code, as~~
24 ~~amended.~~

25 ~~(vi) The low-income housing credit program set forth in Section~~
26 ~~42 of the Internal Revenue Code.~~

27 ~~(B) The restrictions on rent and income levels will terminate or~~
28 ~~the federal insured mortgage on the property is eligible for~~
29 ~~prepayment any time within five years before or after the date of~~
30 ~~application to the California Tax Credit Allocation Committee.~~

31 ~~(C) The entity acquiring the property enters into a regulatory~~
32 ~~agreement that requires the property to be operated in accordance~~
33 ~~with the requirements of this section for a period equal to the~~
34 ~~greater of 55 years or the life of the property.~~

35 ~~(D) The property satisfies the requirements of Section 42(e) of~~
36 ~~the Internal Revenue Code regarding rehabilitation expenditures,~~
37 ~~except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not~~
38 ~~apply.~~

1 ~~(d) The term “qualified low-income housing project” as defined~~
2 ~~in Section 42(c)(2) of the Internal Revenue Code is modified by~~
3 ~~adding the following requirements:~~

4 ~~(1) The taxpayer shall be entitled to receive a cash distribution~~
5 ~~from the operations of the project, after funding required reserves,~~
6 ~~which, at the election of the taxpayer, is equal to:~~

7 ~~(A) An amount not to exceed 8 percent of the lesser of:~~

8 ~~(i) The owner equity which shall include the amount of the~~
9 ~~capital contributions actually paid to the housing sponsor and shall~~
10 ~~not include any amounts until they are paid on an investor note.~~

11 ~~(ii) Twenty percent of the adjusted basis of the building as of~~
12 ~~the close of the first taxable year of the credit period.~~

13 ~~(B) The amount of the cashflow from those units in the building~~
14 ~~that are not low-income units. For purposes of computing cashflow~~
15 ~~under this subparagraph, operating costs shall be allocated to the~~
16 ~~low-income units using the “floor space fraction,” as defined in~~
17 ~~Section 42 of the Internal Revenue Code.~~

18 ~~(C) Any amount allowed to be distributed under subparagraph~~
19 ~~(A) that is not available for distribution during the first five years~~
20 ~~of the compliance period may accumulate and be distributed any~~
21 ~~time during the first 15 years of the compliance period but not~~
22 ~~thereafter.~~

23 ~~(2) The limitation on return shall apply in the aggregate to the~~
24 ~~partners if the housing sponsor is a partnership and in the aggregate~~
25 ~~to the shareholders if the housing sponsor is an “S” corporation.~~

26 ~~(3) The housing sponsor shall apply any cash available for~~
27 ~~distribution in excess of the amount eligible to be distributed under~~
28 ~~paragraph (1) to reduce the rent on rent-restricted units or to~~
29 ~~increase the number of rent-restricted units subject to the tests of~~
30 ~~Section 42(g)(1) of the Internal Revenue Code.~~

31 ~~(e) The provisions of Section 42(f) of the Internal Revenue Code~~
32 ~~shall be modified as follows:~~

33 ~~(1) The term “credit period” as defined in Section 42(f)(1) of~~
34 ~~the Internal Revenue Code is modified by substituting “four taxable~~
35 ~~years” for “10 taxable years.”~~

36 ~~(2) The special rule for the first taxable year of the credit period~~
37 ~~under Section 42(f)(2) of the Internal Revenue Code shall not apply~~
38 ~~to the tax credit under this section.~~

39 ~~(3) Section 42(f)(3) of the Internal Revenue Code is modified~~
40 ~~to read:~~

1 If, as of the close of any taxable year in the compliance period,
2 after the first year of the credit period, the qualified basis of any
3 building exceeds the qualified basis of that building as of the close
4 of the first year of the credit period, the housing sponsor, to the
5 extent of its tax credit allocation, shall be eligible for a credit on
6 the excess in an amount equal to the applicable percentage
7 determined pursuant to subdivision (c) for the four-year period
8 beginning with the later of the taxable years in which the increase
9 in qualified basis occurs.

10 (f) The provisions of Section 42(h) of the Internal Revenue
11 Code shall be modified as follows:

12 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
13 applicable and instead the following provisions shall be applicable:

14 The total amount for the four-year credit period of the housing
15 credit dollars allocated in a calendar year to any building shall
16 reduce the aggregate housing credit dollar amount of the California
17 Tax Credit Allocation Committee for the calendar year in which
18 the allocation is made.

19 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
20 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
21 not be applicable.

22 (g) The aggregate housing credit dollar amount that may be
23 allocated annually by the California Tax Credit Allocation
24 Committee pursuant to this section, Section 17058, and Section
25 23610.5 shall be an amount equal to the sum of all the following:

26 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
27 year, and, for the 2002 calendar year and each calendar year
28 thereafter, seventy million dollars (\$70,000,000) increased by the
29 percentage, if any, by which the Consumer Price Index for the
30 preceding calendar year exceeds the Consumer Price Index for the
31 2001 calendar year. For the purposes of this paragraph, the term
32 “Consumer Price Index” means the last Consumer Price Index for
33 all urban consumers published by the federal Department of Labor.

34 (2) The unused housing credit ceiling, if any, for the preceding
35 calendar years.

36 (3) The amount of housing credit ceiling returned in the calendar
37 year. For purposes of this paragraph, the amount of housing credit
38 dollar amount returned in the calendar year equals the housing
39 credit dollar amount previously allocated to any project that does
40 not become a qualified low-income housing project within the

1 period required by this section or to any project with respect to
2 which an allocation is canceled by mutual consent of the California
3 Tax Credit Allocation Committee and the allocation recipient.

4 (4) ~~One million dollars (\$1,000,000) per calendar year for~~
5 ~~projects to provide farmworker housing, as defined in subdivision~~
6 ~~(h) of Section 50199.7 of the Health and Safety Code.~~

7 (5) ~~The amount of any unallocated or returned credits under~~
8 ~~former Sections 17053.14, 23608.2, and 23608.3, as those sections~~
9 ~~read prior to January 1, 2009, until fully exhausted for projects to~~
10 ~~provide farmworker housing, as defined in subdivision (h) of~~
11 ~~Section 50199.7 of the Health and Safety Code.~~

12 (h) ~~The term “compliance period” as defined in Section 42(i)(1)~~
13 ~~of the Internal Revenue Code is modified to mean, with respect to~~
14 ~~any building, the period of 30 consecutive taxable years beginning~~
15 ~~with the first taxable year of the credit period with respect thereto.~~

16 (i) ~~(1) Section 42(j) of the Internal Revenue Code shall not be~~
17 ~~applicable and the provisions in paragraph (2) shall be substituted~~
18 ~~in its place.~~

19 (2) ~~The requirements of this section shall be set forth in a~~
20 ~~regulatory agreement between the California Tax Credit Allocation~~
21 ~~Committee and the housing sponsor, which agreement shall be~~
22 ~~subordinated, when required, to any lien or encumbrance of any~~
23 ~~banks or other institutional lenders to the project. The regulatory~~
24 ~~agreement entered into pursuant to subdivision (f) of Section~~
25 ~~50199.14 of the Health and Safety Code, shall apply, providing~~
26 ~~the agreement includes all of the following provisions:~~

27 (A) ~~A term not less than the compliance period.~~

28 (B) ~~A requirement that the agreement be filed in the official~~
29 ~~records of the county in which the qualified low-income housing~~
30 ~~project is located.~~

31 (C) ~~A provision stating which state and local agencies can~~
32 ~~enforce the regulatory agreement in the event the housing sponsor~~
33 ~~fails to satisfy any of the requirements of this section.~~

34 (D) ~~A provision that the regulatory agreement shall be deemed~~
35 ~~a contract enforceable by tenants as third-party beneficiaries thereto~~
36 ~~and which allows individuals, whether prospective, present, or~~
37 ~~former occupants of the building, who meet the income limitation~~
38 ~~applicable to the building, the right to enforce the regulatory~~
39 ~~agreement in any state court.~~

1 ~~(E) A provision incorporating the requirements of Section 42~~
2 ~~of the Internal Revenue Code as modified by this section.~~

3 ~~(F) A requirement that the housing sponsor notify the California~~
4 ~~Tax Credit Allocation Committee or its designee and the local~~
5 ~~agency that can enforce the regulatory agreement if there is a~~
6 ~~determination by the Internal Revenue Service that the project is~~
7 ~~not in compliance with Section 42(g) of the Internal Revenue Code.~~

8 ~~(G) A requirement that the housing sponsor, as security for the~~
9 ~~performance of the housing sponsor's obligations under the~~
10 ~~regulatory agreement, assign the housing sponsor's interest in rents~~
11 ~~that it receives from the project, provided that until there is a~~
12 ~~default under the regulatory agreement, the housing sponsor is~~
13 ~~entitled to collect and retain the rents.~~

14 ~~(H) The remedies available in the event of a default under the~~
15 ~~regulatory agreement that is not cured within a reasonable cure~~
16 ~~period, include, but are not limited to, allowing any of the parties~~
17 ~~designated to enforce the regulatory agreement to collect all rents~~
18 ~~with respect to the project; taking possession of the project and~~
19 ~~operating the project in accordance with the regulatory agreement~~
20 ~~until the enforcer determines the housing sponsor is in a position~~
21 ~~to operate the project in accordance with the regulatory agreement;~~
22 ~~applying to any court for specific performance; securing the~~
23 ~~appointment of a receiver to operate the project; or any other relief~~
24 ~~as may be appropriate.~~

25 ~~(j) (1) The committee shall allocate the housing credit on a~~
26 ~~regular basis consisting of two or more periods in each calendar~~
27 ~~year during which applications may be filed and considered. The~~
28 ~~committee shall establish application filing deadlines, the maximum~~
29 ~~percentage of federal and state low-income housing tax credit~~
30 ~~ceiling which may be allocated by the committee in that period,~~
31 ~~and the approximate date on which allocations shall be made. If~~
32 ~~the enactment of federal or state law, the adoption of rules or~~
33 ~~regulations, or other similar events prevent the use of two allocation~~
34 ~~periods, the committee may reduce the number of periods and~~
35 ~~adjust the filing deadlines, maximum percentage of credit allocated,~~
36 ~~and the allocation dates.~~

37 ~~(2) The committee shall adopt a qualified allocation plan, as~~
38 ~~provided in Section 42(m)(1) of the Internal Revenue Code. In~~
39 ~~adopting this plan, the committee shall comply with the provisions~~

1 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
2 Code.

3 ~~(3) Notwithstanding Section 42(m) of the Internal Revenue~~
4 ~~Code, the California Tax Credit Allocation Committee shall~~
5 ~~allocate housing credits in accordance with the qualified allocation~~
6 ~~plan and regulations, which shall include the following provisions:~~

7 ~~(A) All housing sponsors, as defined by paragraph (3) of~~
8 ~~subdivision (a), shall demonstrate at the time the application is~~
9 ~~filed with the committee that the project meets the following~~
10 ~~threshold requirements:~~

11 ~~(i) The housing sponsor shall demonstrate there is a need and~~
12 ~~demand for low-income housing in the community or region for~~
13 ~~which it is proposed.~~

14 ~~(ii) The project's proposed financing, including tax credit~~
15 ~~proceeds, shall be sufficient to complete the project and that the~~
16 ~~proposed operating income shall be adequate to operate the project~~
17 ~~for the extended use period.~~

18 ~~(iii) The project shall have enforceable financing commitments,~~
19 ~~either construction or permanent financing, for at least 50 percent~~
20 ~~of the total estimated financing of the project.~~

21 ~~(iv) The housing sponsor shall have and maintain control of the~~
22 ~~site for the project.~~

23 ~~(v) The housing sponsor shall demonstrate that the project~~
24 ~~complies with all applicable local land use and zoning ordinances.~~

25 ~~(vi) The housing sponsor shall demonstrate that the project~~
26 ~~development team has the experience and the financial capacity~~
27 ~~to ensure project completion and operation for the extended use~~
28 ~~period.~~

29 ~~(vii) The housing sponsor shall demonstrate the amount of tax~~
30 ~~credit that is necessary for the financial feasibility of the project~~
31 ~~and its viability as a qualified low-income housing project~~
32 ~~throughout the extended use period, taking into account operating~~
33 ~~expenses, a supportable debt service, reserves, funds set aside for~~
34 ~~rental subsidies, and required equity, and a development fee that~~
35 ~~does not exceed a specified percentage of the eligible basis of the~~
36 ~~project prior to inclusion of the development fee in the eligible~~
37 ~~basis, as determined by the committee.~~

38 ~~(B) The committee shall give a preference to those projects~~
39 ~~satisfying all of the threshold requirements of subparagraph (A)~~
40 ~~if both of the following apply:~~

1 ~~(i) The project serves the lowest income tenants at rents~~
2 ~~affordable to those tenants.~~

3 ~~(ii) The project is obligated to serve qualified tenants for the~~
4 ~~longest period.~~

5 ~~(C) In addition to the provisions of subparagraphs (A) and (B),~~
6 ~~the committee shall use the following criteria in allocating housing~~
7 ~~credits:~~

8 ~~(i) Projects serving large families in which a substantial number,~~
9 ~~as defined by the committee, of all residential units is comprised~~
10 ~~of low-income units with three and more bedrooms.~~

11 ~~(ii) Projects providing single room occupancy units serving very~~
12 ~~low income tenants.~~

13 ~~(iii) Existing projects that are “at risk of conversion,” as defined~~
14 ~~by paragraph (3) of subdivision (c):~~

15 ~~(iv) Projects for which a public agency provides direct or indirect~~
16 ~~long-term financial support for at least 15 percent of the total~~
17 ~~project development costs or projects for which the owner’s equity~~
18 ~~constitutes at least 30 percent of the total project development~~
19 ~~costs.~~

20 ~~(v) Projects that provide tenant amenities not generally available~~
21 ~~to residents of low-income housing projects.~~

22 ~~(4) For purposes of allocating credits pursuant to this section,~~
23 ~~the committee shall not give preference to any project by virtue~~
24 ~~of the date of submission of its application except to break a tie~~
25 ~~when two or more of the projects have an equal rating.~~

26 ~~(k) Section 42(l) of the Internal Revenue Code shall be modified~~
27 ~~as follows:~~

28 ~~The term “secretary” shall be replaced by the term “California~~
29 ~~Franchise Tax Board.”~~

30 ~~(l) In the case where the state credit allowed under this section~~
31 ~~exceeds the “tax,” the excess may be carried over to reduce the~~
32 ~~“tax” in the following year, and succeeding years if necessary,~~
33 ~~until the credit has been exhausted.~~

34 ~~(m) The provisions of Section 11407(a) of Public Law 101-508,~~
35 ~~relating to the effective date of the extension of the low-income~~
36 ~~housing credit, shall apply to calendar years after 1993.~~

37 ~~(n) The provisions of Section 11407(e) of Public Law 101-508,~~
38 ~~relating to election to accelerate credit, shall not apply.~~

1 ~~(o) This section shall remain in effect for as long as Section 42~~
2 ~~of the Internal Revenue Code, relating to low-income housing~~
3 ~~credits, remains in effect.~~

4 ~~SEC. 2. Section 17058 of the Revenue and Taxation Code is~~
5 ~~amended to read:~~

6 ~~17058. (a) (1) There shall be allowed as a credit against the~~
7 ~~amount of net tax (as defined in Section 17039) a state low-income~~
8 ~~housing credit in an amount equal to the amount determined in~~
9 ~~subdivision (c), computed in accordance with the provisions of~~
10 ~~Section 42 of the Internal Revenue Code, except as otherwise~~
11 ~~provided in this section.~~

12 ~~(2) "Taxpayer" for purposes of this section means the sole owner~~
13 ~~in the case of an individual, the partners in the case of a partnership,~~
14 ~~and the shareholders in the case of an "S" corporation.~~

15 ~~(3) "Housing sponsor" for purposes of this section means the~~
16 ~~sole owner in the case of an individual, the partnership in the case~~
17 ~~of a partnership, and the "S" corporation in the case of an "S"~~
18 ~~corporation.~~

19 ~~(b) (1) The amount of the credit allocated to any housing~~
20 ~~sponsor shall be authorized by the California Tax Credit Allocation~~
21 ~~Committee, or any successor thereof, based on a project's need~~
22 ~~for the credit for economic feasibility in accordance with the~~
23 ~~requirements of this section.~~

24 ~~(A) The low-income housing project shall be located in~~
25 ~~California and shall meet either of the following requirements:~~

26 ~~(i) Except for projects to provide farmworker housing, as defined~~
27 ~~in subdivision (h) of Section 50199.7 of the Health and Safety~~
28 ~~Code, that are allocated credits solely under the set-aside described~~
29 ~~in subdivision (c) of Section 50199.20 of the Health and Safety~~
30 ~~Code, the project's housing sponsor shall have been allocated by~~
31 ~~the California Tax Credit Allocation Committee a credit for federal~~
32 ~~income tax purposes under Section 42 of the Internal Revenue~~
33 ~~Code.~~

34 ~~(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the~~
35 ~~Internal Revenue Code.~~

36 ~~(B) The California Tax Credit Allocation Committee shall not~~
37 ~~require fees for the credit under this section in addition to those~~
38 ~~fees required for applications for the tax credit pursuant to Section~~
39 ~~42 of the Internal Revenue Code. The committee may require a~~
40 ~~fee if the application for the credit under this section is submitted~~

1 in a calendar year after the year the application is submitted for
2 the federal tax credit.

3 (C) (i) For a project that receives a preliminary reservation of
4 the state low-income housing tax credit, allowed pursuant to
5 subdivision (a), on or after January 1, 2009, and before January 1,
6 2016, the credit shall be allocated to the partners of a partnership
7 owning the project in accordance with the partnership agreement,
8 regardless of how the federal low-income housing tax credit with
9 respect to the project is allocated to the partners, or whether the
10 allocation of the credit under the terms of the agreement has
11 substantial economic effect, within the meaning of Section 704(b)
12 of the Internal Revenue Code.

13 (ii) To the extent the allocation of the credit to a partner under
14 this section lacks substantial economic effect, any loss or deduction
15 otherwise allowable under this part that is attributable to the sale
16 or other disposition of that partner's partnership interest made prior
17 to the expiration of the federal credit shall not be allowed in the
18 taxable year in which the sale or other disposition occurs, but shall
19 instead be deferred until and treated as if it occurred in the first
20 taxable year immediately following the taxable year in which the
21 federal credit period expires for the project described in clause (i).

22 (iii) This subparagraph shall not apply to a project that receives
23 a preliminary reservation of state low-income housing tax credits
24 under the set-aside described in subdivision (c) of Section 50199.20
25 unless the project also receives a preliminary reservation of federal
26 low-income housing tax credits.

27 (iv) This subparagraph shall cease to be operative with respect
28 to any project that receives a preliminary reservation of a credit
29 on or after January 1, 2016.

30 (2) (A) The California Tax Credit Allocation Committee shall
31 certify to the housing sponsor the amount of tax credit under this
32 section allocated to the housing sponsor for each credit period.

33 (B) In the case of a partnership or an "S" corporation, the
34 housing sponsor shall provide a copy of the California Tax Credit
35 Allocation Committee certification to the taxpayer.

36 (C) The taxpayer shall, upon request, provide a copy of the
37 certification to the Franchise Tax Board.

38 (D) All elections made by the taxpayer pursuant to Section 42
39 of the Internal Revenue Code shall apply to this section.

1 ~~(E) For buildings located in designated difficult development~~
2 ~~areas or qualified census tracts as defined in Section 42(d)(5)(C)~~
3 ~~of the Internal Revenue Code, credits may be allocated under this~~
4 ~~section in the amounts prescribed in subdivision (c), provided that~~
5 ~~the amount of credit allocated under Section 42 of the Internal~~
6 ~~Revenue Code is computed on 100 percent of the qualified basis~~
7 ~~of the building.~~

8 ~~(c) Section 42(b) of the Internal Revenue Code shall be modified~~
9 ~~as follows:~~

10 ~~(1) In the case of any qualified low-income building placed in~~
11 ~~service by the housing sponsor during 1987, the term “applicable~~
12 ~~percentage” means 9 percent for each of the first three years and~~
13 ~~3 percent for the fourth year for new buildings (whether or not the~~
14 ~~building is federally subsidized) and for existing buildings.~~

15 ~~(2) In the case of any qualified low-income building that receives~~
16 ~~an allocation after 1989 and is a new building not federally~~
17 ~~subsidized, the term “applicable percentage” means the following:~~

18 ~~(A) For each of the first three years, the percentage prescribed~~
19 ~~by the Secretary of the Treasury for new buildings that are not~~
20 ~~federally subsidized for the taxable year, determined in accordance~~
21 ~~with the requirements of Section 42(b)(2) of the Internal Revenue~~
22 ~~Code, in lieu of the percentage prescribed in Section 42(b)(1)(A)~~
23 ~~of the Internal Revenue Code.~~

24 ~~(B) For the fourth year, the difference between 30 percent and~~
25 ~~the sum of the applicable percentages for the first three years.~~

26 ~~(3) In the case of any qualified low-income building that receives~~
27 ~~an allocation after 1989 and that is a new building that is federally~~
28 ~~subsidized or that is an existing building that is “at risk of~~
29 ~~conversion,” the term “applicable percentage” means the following:~~

30 ~~(A) For each of the first three years, the percentage prescribed~~
31 ~~by the Secretary of the Treasury for new buildings that are federally~~
32 ~~subsidized for the taxable year.~~

33 ~~(B) For the fourth year, the difference between 13 percent and~~
34 ~~the sum of the applicable percentages for the first three years.~~

35 ~~(4) For purposes of this section, the term “at risk of conversion,”~~
36 ~~with respect to an existing property means a property that satisfies~~
37 ~~all of the following criteria:~~

38 ~~(A) The property is a multifamily rental housing development~~
39 ~~in which at least 50 percent of the units receive governmental~~
40 ~~assistance pursuant to any of the following:~~

1 (i) ~~New construction, substantial rehabilitation, moderate~~
2 ~~rehabilitation, property disposition, and loan management set-aside~~
3 ~~programs, or any other program providing project-based assistance~~
4 ~~pursuant to Section 8 of the United States Housing Act of 1937,~~
5 ~~Section 1437f of Title 42 of the United States Code, as amended.~~

6 (ii) ~~The Below-Market-Interest-Rate Program pursuant to~~
7 ~~Section 221(d)(3) of the National Housing Act, Sections~~
8 ~~1715/(d)(3) and (5) of Title 12 of the United States Code.~~

9 (iii) ~~Section 236 of the National Housing Act, Section 1715z-1~~
10 ~~of Title 12 of the United States Code.~~

11 (iv) ~~Programs for rent supplement assistance pursuant to Section~~
12 ~~101 of the Housing and Urban Development Act of 1965, Section~~
13 ~~1701s of Title 12 of the United States Code, as amended.~~

14 (v) ~~Programs pursuant to Section 515 of the Housing Act of~~
15 ~~1949, Section 1485 of Title 42 of the United States Code, as~~
16 ~~amended.~~

17 (vi) ~~The low-income housing credit program set forth in Section~~
18 ~~42 of the Internal Revenue Code.~~

19 (B) ~~The restrictions on rent and income levels will terminate or~~
20 ~~the federal insured mortgage on the property is eligible for~~
21 ~~prepayment any time within five years before or after the date of~~
22 ~~application to the California Tax Credit Allocation Committee.~~

23 (C) ~~The entity acquiring the property enters into a regulatory~~
24 ~~agreement that requires the property to be operated in accordance~~
25 ~~with the requirements of this section for a period equal to the~~
26 ~~greater of 55 years or the life of the property.~~

27 (D) ~~The property satisfies the requirements of Section 42(e) of~~
28 ~~the Internal Revenue Code regarding rehabilitation expenditures,~~
29 ~~except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not~~
30 ~~apply.~~

31 (d) ~~The term “qualified low-income housing project” as defined~~
32 ~~in Section 42(e)(2) of the Internal Revenue Code is modified by~~
33 ~~adding the following requirements:~~

34 (1) ~~The taxpayer shall be entitled to receive a cash distribution~~
35 ~~from the operations of the project, after funding required reserves,~~
36 ~~that, at the election of the taxpayer, is equal to:~~

37 (A) ~~An amount not to exceed 8 percent of the lesser of:~~

38 (i) ~~The owner equity that shall include the amount of the capital~~
39 ~~contributions actually paid to the housing sponsor and shall not~~
40 ~~include any amounts until they are paid on an investor note.~~

1 (ii) ~~Twenty percent of the adjusted basis of the building as of~~
2 ~~the close of the first taxable year of the credit period.~~

3 (B) ~~The amount of the cashflow from those units in the building~~
4 ~~that are not low-income units. For purposes of computing cashflow~~
5 ~~under this subparagraph, operating costs shall be allocated to the~~
6 ~~low-income units using the “floor space fraction,” as defined in~~
7 ~~Section 42 of the Internal Revenue Code.~~

8 (C) ~~Any amount allowed to be distributed under subparagraph~~
9 ~~(A) that is not available for distribution during the first five years~~
10 ~~of the compliance period may be accumulated and distributed any~~
11 ~~time during the first 15 years of the compliance period but not~~
12 ~~thereafter.~~

13 (2) ~~The limitation on return shall apply in the aggregate to the~~
14 ~~partners if the housing sponsor is a partnership and in the aggregate~~
15 ~~to the shareholders if the housing sponsor is an “S” corporation.~~

16 (3) ~~The housing sponsor shall apply any cash available for~~
17 ~~distribution in excess of the amount eligible to be distributed under~~
18 ~~paragraph (1) to reduce the rent on rent-restricted units or to~~
19 ~~increase the number of rent-restricted units subject to the tests of~~
20 ~~Section 42(g)(1) of the Internal Revenue Code.~~

21 (e) ~~The provisions of Section 42(f) of the Internal Revenue Code~~
22 ~~shall be modified as follows:~~

23 (1) ~~The term “credit period” as defined in Section 42(f)(1) of~~
24 ~~the Internal Revenue Code is modified by substituting “four taxable~~
25 ~~years” for “10 taxable years.”~~

26 (2) ~~The special rule for the first taxable year of the credit period~~
27 ~~under Section 42(f)(2) of the Internal Revenue Code shall not apply~~
28 ~~to the tax credit under this section.~~

29 (3) ~~Section 42(f)(3) of the Internal Revenue Code is modified~~
30 ~~to read:~~

31 ~~If, as of the close of any taxable year in the compliance period,~~
32 ~~after the first year of the credit period, the qualified basis of any~~
33 ~~building exceeds the qualified basis of that building as of the close~~
34 ~~of the first year of the credit period, the housing sponsor, to the~~
35 ~~extent of its tax credit allocation, shall be eligible for a credit on~~
36 ~~the excess in an amount equal to the applicable percentage~~
37 ~~determined pursuant to subdivision (c) for the four-year period~~
38 ~~beginning with the taxable year in which the increase in qualified~~
39 ~~basis occurs.~~

1 ~~(f) The provisions of Section 42(h) of the Internal Revenue~~
2 ~~Code shall be modified as follows:~~

3 ~~(1) Section 42(h)(2) of the Internal Revenue Code shall not be~~
4 ~~applicable and instead the following provisions shall be applicable:~~

5 ~~The total amount for the four-year period of the housing credit~~
6 ~~dollars allocated in a calendar year to any building shall reduce~~
7 ~~the aggregate housing credit dollar amount of the California Tax~~
8 ~~Credit Allocation Committee for the calendar year in which the~~
9 ~~allocation is made.~~

10 ~~(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),~~
11 ~~(7), and (8) of Section 42(h) of the Internal Revenue Code shall~~
12 ~~not be applicable to this section.~~

13 ~~(g) The aggregate housing credit dollar amount which may be~~
14 ~~allocated annually by the California Tax Credit Allocation~~
15 ~~Committee pursuant to this section, Section 12206, and Section~~
16 ~~23610.5 shall be an amount equal to the sum of all the following:~~

17 ~~(1) Seventy million dollars (\$70,000,000) for the 2001 calendar~~
18 ~~year, and, for the 2002 calendar year and each calendar year~~
19 ~~thereafter, seventy million dollars (\$70,000,000) increased by the~~
20 ~~percentage, if any, by which the Consumer Price Index for the~~
21 ~~preceding calendar year exceeds the Consumer Price Index for the~~
22 ~~2001 calendar year. For the purposes of this paragraph, the term~~
23 ~~“Consumer Price Index” means the last Consumer Price Index for~~
24 ~~all urban consumers published by the federal Department of Labor.~~

25 ~~(2) The unused housing credit ceiling, if any, for the preceding~~
26 ~~calendar years.~~

27 ~~(3) The amount of housing credit ceiling returned in the calendar~~
28 ~~year. For purposes of this paragraph, the amount of housing credit~~
29 ~~dollar amount returned in the calendar year equals the housing~~
30 ~~credit dollar amount previously allocated to any project that does~~
31 ~~not become a qualified low-income housing project within the~~
32 ~~period required by this section or to any project with respect to~~
33 ~~which an allocation is canceled by mutual consent of the California~~
34 ~~Tax Credit Allocation Committee and the allocation recipient.~~

35 ~~(4) One million dollars (\$1,000,000) per calendar year for~~
36 ~~projects to provide farmworker housing, as defined in subdivision~~
37 ~~(h) of Section 50199.7 of the Health and Safety Code.~~

38 ~~(5) The amount of any unallocated or returned credits under~~
39 ~~former Sections 17053.14, 23608.2, and 23608.3, as those sections~~
40 ~~read prior to January 1, 2009, until fully exhausted for projects to~~

1 ~~provide farmworker housing, as defined in subdivision (h) of~~
2 ~~Section 50199.7 of the Health and Safety Code.~~

3 ~~(h) The term “compliance period” as defined in Section 42(i)(1)~~
4 ~~of the Internal Revenue Code is modified to mean, with respect to~~
5 ~~any building, the period of 30 consecutive taxable years beginning~~
6 ~~with the first taxable year of the credit period with respect thereto.~~

7 ~~(i) Section 42(j) of the Internal Revenue Code shall not be~~
8 ~~applicable and the following requirements of this section shall be~~
9 ~~set forth in a regulatory agreement between the California Tax~~
10 ~~Credit Allocation Committee and the housing sponsor, which~~
11 ~~agreement shall be subordinated, when required, to any lien or~~
12 ~~encumbrance of any banks or other institutional lenders to the~~
13 ~~project. The regulatory agreement entered into pursuant to~~
14 ~~subdivision (f) of Section 50199.14 of the Health and Safety Code~~
15 ~~shall apply, providing the agreement includes all of the following~~
16 ~~provisions:~~

17 ~~(1) A term not less than the compliance period.~~

18 ~~(2) A requirement that the agreement be filed in the official~~
19 ~~records of the county in which the qualified low-income housing~~
20 ~~project is located.~~

21 ~~(3) A provision stating which state and local agencies can~~
22 ~~enforce the regulatory agreement in the event the housing sponsor~~
23 ~~fails to satisfy any of the requirements of this section.~~

24 ~~(4) A provision that the regulatory agreement shall be deemed~~
25 ~~a contract enforceable by tenants as third-party beneficiaries thereto~~
26 ~~and which allows individuals, whether prospective, present, or~~
27 ~~former occupants of the building, who meet the income limitation~~
28 ~~applicable to the building, the right to enforce the regulatory~~
29 ~~agreement in any state court.~~

30 ~~(5) A provision incorporating the requirements of Section 42~~
31 ~~of the Internal Revenue Code as modified by this section.~~

32 ~~(6) A requirement that the housing sponsor notify the California~~
33 ~~Tax Credit Allocation Committee or its designee if there is a~~
34 ~~determination by the Internal Revenue Service that the project is~~
35 ~~not in compliance with Section 42(g) of the Internal Revenue Code.~~

36 ~~(7) A requirement that the housing sponsor, as security for the~~
37 ~~performance of the housing sponsor’s obligations under the~~
38 ~~regulatory agreement, assign the housing sponsor’s interest in rents~~
39 ~~that it receives from the project, provided that until there is a~~

1 default under the regulatory agreement, the housing sponsor is
2 entitled to collect and retain the rents.

3 (8) The remedies available in the event of a default under the
4 regulatory agreement that is not cured within a reasonable cure
5 period, include, but are not limited to, allowing any of the parties
6 designated to enforce the regulatory agreement to collect all rents
7 with respect to the project; taking possession of the project and
8 operating the project in accordance with the regulatory agreement
9 until the enforcer determines the housing sponsor is in a position
10 to operate the project in accordance with the regulatory agreement;
11 applying to any court for specific performance; securing the
12 appointment of a receiver to operate the project; or any other relief
13 as may be appropriate.

14 (j) (1) The committee shall allocate the housing credit on a
15 regular basis consisting of two or more periods in each calendar
16 year during which applications may be filed and considered. The
17 committee shall establish application filing deadlines, the maximum
18 percentage of federal and state low-income housing tax credit
19 ceiling that may be allocated by the committee in that period, and
20 the approximate date on which allocations shall be made. If the
21 enactment of federal or state law, the adoption of rules or
22 regulations or other similar events prevent the use of two allocation
23 periods, the committee may reduce the number of periods and
24 adjust the filing deadlines, maximum percentage of credit allocated,
25 and the allocation dates.

26 (2) The committee shall adopt a qualified allocation plan, as
27 provided in Section 42(m)(1) of the Internal Revenue Code. In
28 adopting this plan, the committee shall comply with the provisions
29 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
30 Code.

31 (3) Notwithstanding Section 42(m) of the Internal Revenue
32 Code, the California Tax Credit Allocation Committee shall
33 allocate housing credits in accordance with the qualified allocation
34 plan and regulations, which shall include the following provisions:

35 (A) All housing sponsors, as defined by paragraph (3) of
36 subdivision (a), shall demonstrate at the time the application is
37 filed with the committee that the project meets the following
38 threshold requirements:

1 ~~(i) The housing sponsor shall demonstrate there is a need and~~
2 ~~demand for low-income housing in the community or region for~~
3 ~~which it is proposed.~~

4 ~~(ii) The project's proposed financing, including tax credit~~
5 ~~proceeds, shall be sufficient to complete the project and that the~~
6 ~~proposed operating income shall be adequate to operate the project~~
7 ~~for the extended use period.~~

8 ~~(iii) The project shall have enforceable financing commitments;~~
9 ~~either construction or permanent financing, for at least 50 percent~~
10 ~~of the total estimated financing of the project.~~

11 ~~(iv) The housing sponsor shall have and maintain control of the~~
12 ~~site for the project.~~

13 ~~(v) The housing sponsor shall demonstrate that the project~~
14 ~~complies with all applicable local land use and zoning ordinances.~~

15 ~~(vi) The housing sponsor shall demonstrate that the project~~
16 ~~development team has the experience and the financial capacity~~
17 ~~to ensure project completion and operation for the extended use~~
18 ~~period.~~

19 ~~(vii) The housing sponsor shall demonstrate the amount of tax~~
20 ~~credit that is necessary for the financial feasibility of the project~~
21 ~~and its viability as a qualified low-income housing project~~
22 ~~throughout the extended use period, taking into account operating~~
23 ~~expenses, a supportable debt service, reserves, funds set aside for~~
24 ~~rental subsidies, and required equity, and a development fee that~~
25 ~~does not exceed a specified percentage of the eligible basis of the~~
26 ~~project prior to inclusion of the development fee in the eligible~~
27 ~~basis, as determined by the committee.~~

28 ~~(B) The committee shall give a preference to those projects~~
29 ~~satisfying all of the threshold requirements of subparagraph (A)~~
30 ~~if both of the following apply:~~

31 ~~(i) The project serves the lowest income tenants at rents~~
32 ~~affordable to those tenants.~~

33 ~~(ii) The project is obligated to serve qualified tenants for the~~
34 ~~longest period.~~

35 ~~(C) In addition to the provisions of subparagraphs (A) and (B),~~
36 ~~the committee shall use the following criteria in allocating housing~~
37 ~~credits:~~

38 ~~(i) Projects serving large families in which a substantial number,~~
39 ~~as defined by the committee of all residential units is comprised~~
40 ~~of low-income units with three and more bedrooms.~~

~~(ii) Projects providing single room occupancy units serving very low income tenants.~~

~~(iii) Existing projects that are “at risk of conversion,” as defined by paragraph (4) of subdivision (c).~~

~~(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner’s equity constitutes at least 30 percent of the total project development costs.~~

~~(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.~~

~~(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application.~~

~~(k) Section 42(l) of the Internal Revenue Code shall be modified as follows:~~

~~The term “secretary” shall be replaced by the term “California Franchise Tax Board.”~~

~~(l) In the case where the credit allowed under this section exceeds the net tax, the excess credit may be carried over to reduce the net tax in the following year, and succeeding taxable years, if necessary, until the credit has been exhausted.~~

~~(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:~~

~~(1) The project was not placed in service prior to 1990.~~

~~(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.~~

~~(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).~~

~~(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.~~

~~(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.~~

1 ~~(p) The provisions of Section 11407(e) of Public Law 101-508,~~
2 ~~relating to election to accelerate credit, shall not apply.~~

3 ~~(q) Any unused credit may continue to be carried forward, as~~
4 ~~provided in subdivision (l), until the credit has been exhausted.~~

5 ~~This section shall remain in effect on and after December 1,~~
6 ~~1990, for as long as Section 42 of the Internal Revenue Code,~~
7 ~~relating to low-income housing credits, remains in effect.~~

8 ~~(r) The amendments to this section by the act adding this~~
9 ~~subdivision shall apply only to taxable years beginning on or after~~
10 ~~January 1, 1994.~~

11 ~~SEC. 3. Section 23610.5 of the Revenue and Taxation Code~~
12 ~~is amended to read:~~

13 ~~23610.5. (a) (1) There shall be allowed as a credit against the~~
14 ~~“tax” (as defined by Section 23036) a state low-income housing~~
15 ~~tax credit in an amount equal to the amount determined in~~
16 ~~subdivision (c), computed in accordance with Section 42 of the~~
17 ~~Internal Revenue Code of 1986, except as otherwise provided in~~
18 ~~this section.~~

19 ~~(2) “Taxpayer,” for purposes of this section, means the sole~~
20 ~~owner in the case of a “C” corporation, the partners in the case of~~
21 ~~a partnership, and the shareholders in the case of an “S”~~
22 ~~corporation.~~

23 ~~(3) “Housing sponsor,” for purposes of this section, means the~~
24 ~~sole owner in the case of a “C” corporation, the partnership in the~~
25 ~~case of a partnership, and the “S” corporation in the case of an “S”~~
26 ~~corporation.~~

27 ~~(b) (1) The amount of the credit allocated to any housing~~
28 ~~sponsor shall be authorized by the California Tax Credit Allocation~~
29 ~~Committee, or any successor thereof, based on a project’s need~~
30 ~~for the credit for economic feasibility in accordance with the~~
31 ~~requirements of this section.~~

32 ~~(A) The low-income housing project shall be located in~~
33 ~~California and shall meet either of the following requirements:~~

34 ~~(i) Except for projects to provide farmworker housing, as defined~~
35 ~~in subdivision (h) of Section 50199.7 of the Health and Safety~~
36 ~~Code, that are allocated credits solely under the set-aside described~~
37 ~~in subdivision (c) of Section 50199.20 of the Health and Safety~~
38 ~~Code, the project’s housing sponsor has been allocated by the~~
39 ~~California Tax Credit Allocation Committee a credit for federal~~

1 income tax purposes under Section 42 of the Internal Revenue
2 Code.

3 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
4 Internal Revenue Code.

5 (B) The California Tax Credit Allocation Committee shall not
6 require fees for the credit under this section in addition to those
7 fees required for applications for the tax credit pursuant to Section
8 42 of the Internal Revenue Code. The committee may require a
9 fee if the application for the credit under this section is submitted
10 in a calendar year after the year the application is submitted for
11 the federal tax credit.

12 (C) (i) For a project that receives a preliminary reservation of
13 the state low-income housing tax credit, allowed pursuant to
14 subdivision (a), on or after January 1, 2009, and before January 1,
15 2016, the credit shall be allocated to the partners of a partnership
16 owning the project in accordance with the partnership agreement,
17 regardless of how the federal low-income housing tax credit with
18 respect to the project is allocated to the partners, or whether the
19 allocation of the credit under the terms of the agreement has
20 substantial economic effect, within the meaning of Section 704(b)
21 of the Internal Revenue Code.

22 (ii) To the extent the allocation of the credit to a partner under
23 this section lacks substantial economic effect, any loss or deduction
24 otherwise allowable under this part that is attributable to the sale
25 or other disposition of that partner's partnership interest made prior
26 to the expiration of the federal credit shall not be allowed in the
27 taxable year in which the sale or other disposition occurs, but shall
28 instead be deferred until and treated as if it occurred in the first
29 taxable year immediately following the taxable year in which the
30 federal credit period expires for the project described in clause (i).

31 (iii) This subparagraph shall not apply to a project that receives
32 a preliminary reservation of state low-income housing tax credits
33 under the set-aside described in subdivision (e) of Section 50199.20
34 unless the project also receives a preliminary reservation of federal
35 low-income housing tax credits.

36 (iv) This subparagraph shall cease to be operative with respect
37 to any project that receives a preliminary reservation of a credit
38 on or after January 1, 2016.

1 ~~(2) (A) The California Tax Credit Allocation Committee shall~~
2 ~~certify to the housing sponsor the amount of tax credit under this~~
3 ~~section allocated to the housing sponsor for each credit period.~~

4 ~~(B) In the case of a partnership or an "S" corporation, the~~
5 ~~housing sponsor shall provide a copy of the California Tax Credit~~
6 ~~Allocation Committee certification to the taxpayer.~~

7 ~~(C) The taxpayer shall, upon request, provide a copy of the~~
8 ~~certification to the Franchise Tax Board.~~

9 ~~(D) All elections made by the taxpayer pursuant to Section 42~~
10 ~~of the Internal Revenue Code shall apply to this section.~~

11 ~~(E) For buildings located in designated difficult development~~
12 ~~areas or qualified census tracts as defined in Section 42(d)(5)(C)~~
13 ~~of the Internal Revenue Code, credits may be allocated under this~~
14 ~~section in the amounts prescribed in subdivision (c), provided that~~
15 ~~the amount of credit allocated under Section 42 of the Internal~~
16 ~~Revenue Code is computed on 100 percent of the qualified basis~~
17 ~~of the building.~~

18 ~~(e) Section 42(b) of the Internal Revenue Code shall be modified~~
19 ~~as follows:~~

20 ~~(1) In the case of any qualified low-income building placed in~~
21 ~~service by the housing sponsor during 1987, the term "applicable~~
22 ~~percentage" means 9 percent for each of the first three years and~~
23 ~~3 percent for the fourth year for new buildings (whether or not the~~
24 ~~building is federally subsidized) and for existing buildings.~~

25 ~~(2) In the case of any qualified low-income building that receives~~
26 ~~an allocation after 1989 and is a new building not federally~~
27 ~~subsidized, the term "applicable percentage" means the following:~~

28 ~~(A) For each of the first three years, the percentage prescribed~~
29 ~~by the Secretary of the Treasury for new buildings that are not~~
30 ~~federally subsidized for the taxable year, determined in accordance~~
31 ~~with the requirements of Section 42(b)(2) of the Internal Revenue~~
32 ~~Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).~~

33 ~~(B) For the fourth year, the difference between 30 percent and~~
34 ~~the sum of the applicable percentages for the first three years.~~

35 ~~(3) In the case of any qualified low-income building that receives~~
36 ~~an allocation after 1989 and that is a new building that is federally~~
37 ~~subsidized or that is an existing building that is "at risk of~~
38 ~~conversion," the term "applicable percentage" means the following:~~

1 (A) For each of the first three years, the percentage prescribed
2 by the Secretary of the Treasury for new buildings that are federally
3 subsidized for the taxable year.

4 (B) For the fourth year, the difference between 13 percent and
5 the sum of the applicable percentages for the first three years.

6 (4) For purposes of this section, the term “at risk of conversion,”
7 with respect to an existing property means a property that satisfies
8 all of the following criteria:

9 (A) The property is a multifamily rental housing development
10 in which at least 50 percent of the units receive governmental
11 assistance pursuant to any of the following:

12 (i) New construction, substantial rehabilitation, moderate
13 rehabilitation, property disposition, and loan management set-aside
14 programs, or any other program providing project-based assistance
15 pursuant to Section 8 of the United States Housing Act of 1937,
16 Section 1437f of Title 42 of the United States Code, as amended.

17 (ii) The Below-Market-Interest-Rate Program pursuant to
18 Section 221(d)(3) of the National Housing Act, Sections
19 1715l(d)(3) and (5) of Title 12 of the United States Code.

20 (iii) Section 236 of the National Housing Act, Section 1715z-1
21 of Title 12 of the United States Code.

22 (iv) Programs for rent supplement assistance pursuant to Section
23 101 of the Housing and Urban Development Act of 1965, Section
24 1701s of Title 12 of the United States Code, as amended.

25 (v) Programs pursuant to Section 515 of the Housing Act of
26 1949, Section 1485 of Title 42 of the United States Code, as
27 amended.

28 (vi) The low-income housing credit program set forth in Section
29 42 of the Internal Revenue Code.

30 (B) The restrictions on rent and income levels will terminate or
31 the federally insured mortgage on the property is eligible for
32 prepayment any time within five years before or after the date of
33 application to the California Tax Credit Allocation Committee.

34 (C) The entity acquiring the property enters into a regulatory
35 agreement that requires the property to be operated in accordance
36 with the requirements of this section for a period equal to the
37 greater of 55 years or the life of the property.

38 (D) The property satisfies the requirements of Section 42(e) of
39 the Internal Revenue Code regarding rehabilitation expenditures;

1 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
2 apply:

3 (d) The term “qualified low-income housing project” as defined
4 in Section 42(e)(2) of the Internal Revenue Code is modified by
5 adding the following requirements:

6 (1) The taxpayer shall be entitled to receive a cash distribution
7 from the operations of the project, after funding required reserves;
8 which, at the election of the taxpayer, shall be equal to:

9 (A) An amount not to exceed 8 percent of the lesser of:

10 (i) The owner equity, which shall include the amount of the
11 capital contributions actually paid to the housing sponsor and shall
12 not include any amounts until they are paid on an investor note.

13 (ii) Twenty percent of the adjusted basis of the building as of
14 the close of the first taxable year of the credit period.

15 (B) The amount of the cashflow from those units in the building
16 that are not low-income units. For purposes of computing cashflow
17 under this subparagraph, operating costs shall be allocated to the
18 low-income units using the “floor space fraction,” as defined in
19 Section 42 of the Internal Revenue Code.

20 (C) Any amount allowed to be distributed under subparagraph
21 (A) that is not available for distribution during the first five years
22 of the compliance period may accumulate and be distributed at
23 any time during the first 15 years of the compliance period but not
24 thereafter.

25 (2) The limitation on return shall apply in the aggregate to the
26 partners if the housing sponsor is a partnership and in the aggregate
27 to the shareholders if the housing sponsor is an “S” corporation.

28 (3) The housing sponsor shall apply any cash available for
29 distribution in excess of the amount eligible to be distributed under
30 paragraph (1) to reduce the rent on rent-restricted units or to
31 increase the number of rent-restricted units subject to the tests of
32 Section 42(g)(1) of the Internal Revenue Code.

33 (e) The provisions of Section 42(f) of the Internal Revenue Code
34 shall be modified as follows:

35 (1) The term “credit period” as defined in Section 42(f)(1) of
36 the Internal Revenue Code is modified by substituting “four taxable
37 years” for “10 taxable years.”

38 (2) The special rule for the first taxable year of the credit period
39 under Section 42(f)(2) of the Internal Revenue Code shall not apply
40 to the tax credit under this section.

~~(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:~~

~~If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.~~

~~(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:~~

~~(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:~~

~~The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.~~

~~(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable.~~

~~(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:~~

~~(1) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.~~

~~(2) The unused housing credit ceiling, if any, for the preceding calendar years.~~

~~(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing~~

1 credit dollar amount previously allocated to any project that does
2 not become a qualified low-income housing project within the
3 period required by this section or to any project with respect to
4 which an allocation is canceled by mutual consent of the California
5 Tax Credit Allocation Committee and the allocation recipient.

6 ~~(4) One million dollars (\$1,000,000) per calendar year for~~
7 ~~projects to provide farmworker housing, as defined in subdivision~~
8 ~~(h) of Section 50199.7 of the Health and Safety Code.~~

9 ~~(5) The amount of any unallocated or returned credits under~~
10 ~~former Sections 17053.14, 23608.2, and 23608.3, as those sections~~
11 ~~read prior to January 1, 2009, until fully exhausted for projects to~~
12 ~~provide farmworker housing, as defined in subdivision (h) of~~
13 ~~Section 50199.7 of the Health and Safety Code.~~

14 ~~(h) The term “compliance period” as defined in Section 42(i)(1)~~
15 ~~of the Internal Revenue Code is modified to mean, with respect to~~
16 ~~any building, the period of 30 consecutive taxable years beginning~~
17 ~~with the first taxable year of the credit period with respect thereto.~~

18 ~~(i) Section 42(j) of the Internal Revenue Code shall not be~~
19 ~~applicable and the following shall be substituted in its place:~~

20 The requirements of this section shall be set forth in a regulatory
21 agreement between the California Tax Credit Allocation Committee
22 and the housing sponsor, and this agreement shall be subordinated,
23 when required, to any lien or encumbrance of any banks or other
24 institutional lenders to the project. The regulatory agreement
25 entered into pursuant to subdivision (f) of Section 50199.14 of the
26 Health and Safety Code shall apply, provided that the agreement
27 includes all of the following provisions:

28 (1) A term not less than the compliance period.

29 (2) A requirement that the agreement be filed in the official
30 records of the county in which the qualified low-income housing
31 project is located.

32 (3) A provision stating which state and local agencies can
33 enforce the regulatory agreement in the event the housing sponsor
34 fails to satisfy any of the requirements of this section.

35 (4) A provision that the regulatory agreement shall be deemed
36 a contract enforceable by tenants as third-party beneficiaries
37 thereto, and that allows individuals, whether prospective, present,
38 or former occupants of the building, who meet the income
39 limitation applicable to the building the right to enforce the
40 regulatory agreement in any state court.

1 ~~(5) A provision incorporating the requirements of Section 42~~
2 ~~of the Internal Revenue Code as modified by this section.~~

3 ~~(6) A requirement that the housing sponsor notify the California~~
4 ~~Tax Credit Allocation Committee or its designee if there is a~~
5 ~~determination by the Internal Revenue Service that the project is~~
6 ~~not in compliance with Section 42(g) of the Internal Revenue Code.~~

7 ~~(7) A requirement that the housing sponsor, as security for the~~
8 ~~performance of the housing sponsor's obligations under the~~
9 ~~regulatory agreement, assign the housing sponsor's interest in rents~~
10 ~~that it receives from the project, provided that until there is a~~
11 ~~default under the regulatory agreement, the housing sponsor is~~
12 ~~entitled to collect and retain the rents.~~

13 ~~(8) A provision that the remedies available in the event of a~~
14 ~~default under the regulatory agreement that is not cured within a~~
15 ~~reasonable cure period include, but are not limited to, allowing~~
16 ~~any of the parties designated to enforce the regulatory agreement~~
17 ~~to collect all rents with respect to the project; taking possession of~~
18 ~~the project and operating the project in accordance with the~~
19 ~~regulatory agreement until the enforcer determines the housing~~
20 ~~sponsor is in a position to operate the project in accordance with~~
21 ~~the regulatory agreement; applying to any court for specific~~
22 ~~performance; securing the appointment of a receiver to operate~~
23 ~~the project; or any other relief as may be appropriate.~~

24 ~~(j) (1) The committee shall allocate the housing credit on a~~
25 ~~regular basis consisting of two or more periods in each calendar~~
26 ~~year during which applications may be filed and considered. The~~
27 ~~committee shall establish application filing deadlines, the maximum~~
28 ~~percentage of federal and state low-income housing tax credit~~
29 ~~ceiling that may be allocated by the committee in that period, and~~
30 ~~the approximate date on which allocations shall be made. If the~~
31 ~~enactment of federal or state law, the adoption of rules or~~
32 ~~regulations, or other similar events prevent the use of two allocation~~
33 ~~periods, the committee may reduce the number of periods and~~
34 ~~adjust the filing deadlines, maximum percentage of credit allocated,~~
35 ~~and allocation dates.~~

36 ~~(2) The committee shall adopt a qualified allocation plan, as~~
37 ~~provided in Section 42(m)(1) of the Internal Revenue Code. In~~
38 ~~adopting this plan, the committee shall comply with the provisions~~
39 ~~of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue~~
40 ~~Code.~~

1 ~~(3) Notwithstanding Section 42(m) of the Internal Revenue~~
2 ~~Code, the California Tax Credit Allocation Committee shall~~
3 ~~allocate housing credits in accordance with the qualified allocation~~
4 ~~plan and regulations, which shall include the following provisions:~~

5 ~~(A) All housing sponsors, as defined by paragraph (3) of~~
6 ~~subdivision (a), shall demonstrate at the time the application is~~
7 ~~filed with the committee that the project meets the following~~
8 ~~threshold requirements:~~

9 ~~(i) The housing sponsor shall demonstrate that there is a need~~
10 ~~for low-income housing in the community or region for which it~~
11 ~~is proposed.~~

12 ~~(ii) The project's proposed financing, including tax credit~~
13 ~~proceeds, shall be sufficient to complete the project and shall be~~
14 ~~adequate to operate the project for the extended use period.~~

15 ~~(iii) The project shall have enforceable financing commitments,~~
16 ~~either construction or permanent financing, for at least 50 percent~~
17 ~~of the total estimated financing of the project.~~

18 ~~(iv) The housing sponsor shall have and maintain control of the~~
19 ~~site for the project.~~

20 ~~(v) The housing sponsor shall demonstrate that the project~~
21 ~~complies with all applicable local land use and zoning ordinances.~~

22 ~~(vi) The housing sponsor shall demonstrate that the project~~
23 ~~development team has the experience and the financial capacity~~
24 ~~to ensure project completion and operation for the extended use~~
25 ~~period.~~

26 ~~(vii) The housing sponsor shall demonstrate the amount of tax~~
27 ~~credit that is necessary for the financial feasibility of the project~~
28 ~~and its viability as a qualified low-income housing project~~
29 ~~throughout the extended use period, taking into account operating~~
30 ~~expenses, a supportable debt service, reserves, funds set aside for~~
31 ~~rental subsidies, and required equity, and a development fee that~~
32 ~~does not exceed a specified percentage of the eligible basis of the~~
33 ~~project prior to inclusion of the development fee in the eligible~~
34 ~~basis, as determined by the committee.~~

35 ~~(B) The committee shall give a preference to those projects~~
36 ~~satisfying all of the threshold requirements of subparagraph (A)~~
37 ~~if both of the following apply:~~

38 ~~(i) The project serves the lowest income tenants at rents~~
39 ~~affordable to those tenants.~~

~~(ii) The project is obligated to serve qualified tenants for the longest period.~~

~~(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:~~

~~(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three and more bedrooms.~~

~~(ii) Projects providing single-room occupancy units serving very low income tenants.~~

~~(iii) Existing projects that are “at risk of conversion,” as defined by paragraph (4) of subdivision (c).~~

~~(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner’s equity constitutes at least 30 percent of the total project development costs.~~

~~(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.~~

~~(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.~~

~~(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.~~

~~(k) Section 42(l) of the Internal Revenue Code shall be modified as follows:~~

~~The term “secretary” shall be replaced by the term “California Franchise Tax Board.”~~

~~(l) In the case where the state credit allowed under this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.~~

1 ~~(m) A project that received an allocation of a 1989 federal~~
2 ~~housing credit dollar amount shall be eligible to receive an~~
3 ~~allocation of a 1990 state housing credit dollar amount, subject to~~
4 ~~all of the following conditions:~~

5 ~~(1) The project was not placed in service prior to 1990.~~

6 ~~(2) To the extent the amendments made to this section by the~~
7 ~~Statutes of 1990 conflict with any provisions existing in this section~~
8 ~~prior to those amendments, the prior provisions of law shall prevail.~~

9 ~~(3) Notwithstanding paragraph (2), a project applying for an~~
10 ~~allocation under this subdivision shall be subject to the~~
11 ~~requirements of paragraph (3) of subdivision (j).~~

12 ~~(n) The credit period with respect to an allocation of credit in~~
13 ~~1989 by the California Tax Credit Allocation Committee of which~~
14 ~~any amount is attributable to unallocated credit from 1987 or 1988~~
15 ~~shall not begin until after December 31, 1989.~~

16 ~~(o) The provisions of Section 11407(a) of Public Law 101-508,~~
17 ~~relating to the effective date of the extension of the low-income~~
18 ~~housing credit, shall apply to calendar years after 1989.~~

19 ~~(p) The provisions of Section 11407(e) of Public Law 101-508,~~
20 ~~relating to election to accelerate credit, shall not apply.~~

21 ~~(q) (1) A corporation may elect to assign any portion of any~~
22 ~~credit allowed under this section to one or more affiliated~~
23 ~~corporations for each taxable year in which the credit is allowed.~~
24 ~~For purposes of this subdivision, "affiliated corporation" has the~~
25 ~~meaning provided in subdivision (b) of Section 25110, as that~~
26 ~~section was amended by Chapter 881 of the Statutes of 1993, as~~
27 ~~of the last day of the taxable year in which the credit is allowed,~~
28 ~~except that "100 percent" is substituted for "more than 50 percent"~~
29 ~~wherever it appears in the section, as that section was amended by~~
30 ~~Chapter 881 of the Statutes of 1993, and "voting common stock"~~
31 ~~is substituted for "voting stock" wherever it appears in the section,~~
32 ~~as that section was amended by Chapter 881 of the Statutes of~~
33 ~~1993.~~

34 ~~(2) The election provided in paragraph (1):~~

35 ~~(A) May be based on any method selected by the corporation~~
36 ~~that originally receives the credit.~~

37 ~~(B) Shall be irrevocable for the taxable year the credit is allowed,~~
38 ~~once made.~~

39 ~~(C) May be changed for any subsequent taxable year if the~~
40 ~~election to make the assignment is expressly shown on each of the~~

1 ~~returns of the affiliated corporations that assign and receive the~~
2 ~~credits.~~

3 ~~(r) Any unused credit may continue to be carried forward, as~~
4 ~~provided in subdivision (k), until the credit has been exhausted.~~

5 ~~This section shall remain in effect on or after December 1, 1990,~~
6 ~~for as long as Section 42 of the Internal Revenue Code, relating~~
7 ~~to low-income housing credits, remains in effect.~~

8 ~~(s) The amendments to this section made by the act adding this~~
9 ~~subdivision shall apply only to taxable years beginning on or after~~
10 ~~January 1, 1994, except that paragraph (1) of subdivision (q), as~~
11 ~~amended, shall apply to taxable years beginning on or after January~~
12 ~~1, 1993.~~

13 ~~SEC. 4. This act provides for a tax levy within the meaning of~~
14 ~~Article IV of the Constitution and shall go into immediate effect.~~